

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA

RALPH WILLIAMS,)	
)	
Plaintiff,)	JURY DEMAND
)	
v.)	NO. _____
)	
SISKIN STEEL & SUPPLY COMPANY,)	
INC.,)	
)	
Defendant.)	

COMPLAINT

Comes Plaintiff and sues Defendant for back pay and damages in the amount of \$750,000.00, together with other appropriate equitable relief. Plaintiff would show unto the Court the following:

A. NATURE OF THE ACTION

1. This is an action brought to redress termination of employment and unlawful retaliation in violation of the Age Discrimination in Employment Act, 29 U.S.C. § 621, *et seq.* ("ADEA"); the Tennessee Human Rights Act, Tenn. Code Ann. § 4-21-101, *et seq.* ("THRA"); the Americans with Disabilities Act, as amended, 42 U.S.C. § 12101, *et seq.* ("ADA"); and the Tennessee Disability Act, Tenn. Code Ann. § 8-50-103 ("TDA").

B. JURISDICTION

2. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1331, 29 U.S.C. § 626, 42 U.S.C. § 12117, and 28 U.S.C. § 1367. Plaintiff has filed a charge of age discrimination with the Equal Employment Opportunity Commission ("EEOC"), and said charge has been pending for over 60 days. Plaintiff has filed a charge of retaliation in violation of the

ADEA and ADA with the EEOC, which is currently pending. Plaintiff has filed a charge of discrimination in violation of the ADA with the EEOC which is pending.

3. The actions complained of herein took place in Hamilton County, Tennessee.

C. THE PARTIES

4. Plaintiff Ralph Williams is a resident of Hamilton County, Tennessee.

5. Defendant Siskin Steel & Supply Company, Inc. ("Siskin" or "Defendant") is a domestic corporation doing business in Hamilton County, Tennessee.

6. Defendant's operations are sufficient to classify it as an "employer" under the ADEA, the THRA, and the TDA.

D. FACTUAL BASES OF PLAINTIFF'S CLAIM

7. Plaintiff was employed with Defendant as a Network Technician from August 2009 until his termination on or about May 31, 2012.

8. At all times during his employment, Plaintiff performed his duties in a competent, professional, and diligent manner.

9. At the time of his discharge, Plaintiff suffered from epilepsy, and was 50 years of age.

10. As a result of his epilepsy, Plaintiff is substantially limited in the major life activities of brain and neurological function. Defendant also regarded Plaintiff as a person with a disability.

11. Despite suffering occasional seizures as a result of epilepsy, Plaintiff's disability never affected his ability to perform his essential job duties with Defendant, and Plaintiff never required accommodation to adequately perform the duties of his job.

12. Defendant became aware of Plaintiff's epilepsy in February 2012.

13. Plaintiff was terminated by Defendant on or about May 31, 2012. The stated reason given by Defendant was "reduction in force".

14. Plaintiff's work duties were assigned to an employee in his 30's, whom Plaintiff had trained before his termination.

15. The employee who replaced Plaintiff did not and is not believed to currently suffer from a disability.

16. On or about June 25, 2012, Plaintiff's attorney sent a letter to Rick England, Defendant's Human Resources Manager, concerning that termination from employment, suggesting the possibility of resolving Plaintiff's claims without the necessity of filing charges or a suit.

17. Thereafter, Defendant's attorney and Plaintiff's attorney communicated concerning these issues, but they were unable to resolve the dispute between their respective clients. However, Defendant did become aware that Plaintiff intended to assert violations of applicable laws prohibiting discrimination on the basis of age and disability.

18. In early January 2013, Defendant began advertising to fill Plaintiff's position or a position very similar to the one that Plaintiff had filled, despite claiming that the termination was necessitated by a reduction in force.

19. In mid-January 2013, Plaintiff re-applied with Defendant for this posted position, in response to an on-line job posting.

20. Soon thereafter, Plaintiff filed his Charge of Discrimination with the EEOC, alleging Defendant unlawfully terminated his employment based upon age and disability discrimination. Having hope that Plaintiff would be offered reemployment, he did not, at that time, file retaliation charges against the Defendant. However, when it later became apparent that

Defendant would not even consider Plaintiff for reemployment, despite the fact that he had successfully performed well in the past, Plaintiff thereafter filed charges of retaliation in violation of the ADEA and ADA with the EEOC.

21. Despite re-applying for his old position, which Defendant had openly posted to the public, Plaintiff never received an interview, telephone call, or even a communication from Defendant.

E. CAUSES OF ACTION

Age Discrimination in Employment Act

22. Defendant violated the ADEA, specifically 29 U.S.C. §623, by discharging or otherwise terminating Plaintiff's employment because of Plaintiff's age.

23. The actions of the Defendant were willful.

Tennessee Human Rights Act

24. Defendant was motivated in its decision to terminate Plaintiff because of Plaintiff's age, in violation of the THRA.

25. Defendant is responsible for the acts of its supervisory agents.

Tennessee Disability Act

26. Plaintiff is a qualified individual with a disability (epilepsy), as defined by 42 U.S.C. § 12102(2)(B) and 29 C.F.R. §1630.2(j)(3)(iii), which definition has been adopted by Tennessee courts in interpreting the TDA.

27. Plaintiff was able to perform the essential functions of his job with Defendant with no accommodation.

28. In addition, or in the alternative, Defendant perceived Plaintiff as having a disability.

29. By terminating Plaintiff because of his disability and/or due to its perception of Plaintiff as disabled, Defendant is violation of the TDA.

Retaliation

30. By failing to consider and/or employ Plaintiff for its open position in January 2013, Defendant retaliated against Plaintiff for filing discrimination charges with the EEOC. The retaliation is in violation of the ADEA, ADA, THRA and the TDA.

F. JURISDICTIONAL PREREQUISITE-ADA and ADEA RETALIATION

31. Plaintiff has filed a Charge of Discrimination alleging discrimination based on both age and disability with the EEOC, and he reserves the right to amend his Complaint to add a federal ADA discrimination claim upon his receipt of a Notice of Right to Sue. Plaintiff also has filed charges of retaliation in violation of the ADEA and ADA, and he similarly reserves his right to amend his Complaint upon the expiration of 60 days or the receipt of a right-to-sue letter.

G. DAMAGES

32. As a result of Defendant's wrongful actions, Plaintiff has suffered financially and emotionally. Specifically, Plaintiff has suffered lost income, future income, employee benefits, and has suffered emotional damage, including humiliation and embarrassment.

H. PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays:

a. That this Court issue process and that Defendant be required to respond within the time prescribed by law;

b. That Plaintiff be awarded damages for lost wages, as provided for in the ADEA, THRA, and the TDA.

c. That Plaintiff be awarded reinstatement, or front pay in lieu thereof, as provided for in the TDA and THRA;

- d. That Plaintiff be awarded damages for humiliation and embarrassment, as provided for in the TDA and THRA;
- e. That Plaintiff be awarded liquidated damages under the ADEA;
- f. That Plaintiff be awarded the value of lost employee benefits;
- g. That Plaintiff be awarded his reasonable attorney fees and the costs of this action;
- h. That Plaintiff be awarded such further legal and equitable relief that this Court deems proper for the purposes of effectuating the ADEA, ADA, TDA, and THRA; and
- i. That a jury try all issues triable by a jury.

Respectfully submitted,

BURNETTE, DOBSON & PINCHAK

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